



STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

IN THE MATTER OF

Tricia Kingston,

Complainant

and

**Bourbonnais Police Department,
Respondent**

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CHARGE NO.: 2000 CE3095
EEOC NO.: 21BA 03779
ALS NO.: 11575

RECOMMENDED ORDER AND DECISION

This matter comes before the Commission on Respondent's second Motion to Dismiss ("Motion"), filed on October 9, 2001. Complainant did not file a response to the Motion. No reply was required from Respondent. There is no further activity in this case reflected in the record. It is now ready for disposition.

Statement of the Case

The complaint in this case was filed on Complainant's behalf by the Illinois Department of Human Rights on July 3, 2001. In lieu of a verified answer, Respondent filed its first motion to dismiss on August 6, 2001, asking for dismissal on the basis of it not being an entity that could be named as a respondent in a case before the Commission. Complainant did not file a response, but the motion was denied on September 25, 2001. However, because Complainant had not appeared before the Commission at any time and did not respond to the first motion to dismiss, Respondent was given leave to file a second motion to dismiss based on Complainant's lack of prosecution. The second motion to dismiss was then filed on October 9, 2001. Complainant was given until November 26, 2001 to respond to the Motion, but did not do so.

Findings of Fact

1. Respondent, represented by counsel, was properly served with notice of this matter and timely filed a motion to dismiss in lieu of a verified answer.
2. Although duly served with notice of the filing of her complaint and the several orders and motions filed in this matter at her two last known addresses, Complainant has not filed an appearance, responded to either of the two motions to dismiss filed by Respondent, or otherwise participated in the prosecution of this matter. She has not filed any notice advising the Commission that her address has changed from either of those found in the record of this case.

Conclusions of Law

1. Complainant is an “aggrieved party” and Respondent is an “employer” as those terms are defined by the Illinois Human Rights Act, 775 ILCS 5/1-103(B) and 5/2-101(B) respectively.
2. The Commission has jurisdiction over the parties and the subject matter of this action.
3. The Commission is authorized to dismiss complaints with prejudice due to “the failure of a party to prosecute his or her case” Illinois Human Rights Act, 775 ILCS 5/8A-102(I)(6).
4. Because Complainant has failed to take any action with regard to this case, there has been a failure “to prosecute his or her case” on the part of Complainant, thereby requiring dismissal of the complaint with prejudice.

Discussion

It is a fundamental principle governing practice before this Commission that it is the singular responsibility of complainants to diligently pursue the disposition of the cases once they are docketed with the Commission. In this case, Complainant has not participated in the prosecution of it in any meaningful fashion. Because of the passage of time with no effective action

on the part of Complainant, it is recommended that this case now be dismissed because of the failure of Complainant to prosecute his case.

Recommendation

It is recommended that Respondent's Motion be granted and this case be dismissed with prejudice pursuant to the authority granted to the Commission in the Illinois Human Rights Act at 775 ILCS 5/8A-102(D)(6).

HUMAN RIGHTS COMMISSION

ENTERED:

March 12, 2002

BY: _____

DAVID J. BRENT
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

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